

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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CATHY AREU,	:	
	:	Civil Case No.: 20-cv-_____ (severed
Plaintiff,	:	from 20-cv-05593 (RA))
	:	
v.	:	
	:	<b>AMENDED COMPLAINT</b>
FOX NEWS NETWORK, LLC, ED HENRY,	:	
SEAN HANNITY, TUCKER CARLSON and	:	
HOWARD KURTZ, in their individual and	:	<b><u>Jury Trial Demanded</u></b>
professional capacities,	:	
	:	
Defendants.	:	
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This action was originally brought by Jennifer Eckhart (“**Ms. Eckhart**”) and Cathy Areu (“**Ms. Areu**” or “**Plaintiff**”) via the filing of the original complaint on July 20, 2020 (the “**Original Complaint**,” ECF Dkt. No.1), subsequently amended on or about September 11, 2020 (the “First Amended Complaint,” or “FAC”) ECF Dkt. No. 38). By Order dated October 8, 2020 (the “October 8 Order,” ECF Dkt. No 75), the claims of Ms. Eckhart and Ms. Areu were severed. Now, by and through her undersigned counsel, pursuant to that Order, Ms. Areu hereby refiles the Amended Complaint to facilitate severance of the action, asserting allegations against defendants Fox News Network, LLC (“**Fox News**”), Ed Henry (“**Mr. Henry**”), Sean Hannity (“**Mr. Hannity**”), Tucker Carlson (“**Mr. Carlson**”) and Howard Kurtz (“**Mr. Kurtz**”) (collectively, “**Defendants**”), as follows:

**PRELIMINARY STATEMENT**

1. It is widely documented in the public record that Fox News has not only cultivated and fostered an atmosphere rife with sexual harassment and misconduct, but also has consistently

accepted and rewarded that conduct. Nevertheless, Fox News would have the public believe that it is a different place from the Fox News that was run by former disgraced Chairman and CEO Roger Ailes. Unfortunately, it is actually worse.

2. As described in detail herein, Fox News continues to protect and reward perpetrators of sexual harassment and refuses to take accountability for putting such persons in positions of power from which they can subject women and specifically Ms. Areu and Ms. Eckhart to varying degrees of sexual misconduct. Ms. Areu was further subjected to a failure to hire and to retaliation for filing the instant lawsuit. Some of the names in leadership may have changed since Roger Ailes' regime, but Fox News' institutional apathy towards sexual misconduct has not.

3. Accordingly, Ms. Areu brings this action seeking injunctive, declaratory and monetary relief against all Defendants in violation of the New York State Human Rights Law, N.Y. Exec. Law §§ 290, *et seq.* (“**NYSHRL**”) and the New York City Human Rights Law, N.Y.C. Admin. Code §§ 8-101, *et seq.* (“**NYCHRL**”). Additionally, Ms. Areu asserts discrimination and retaliation claims against Defendant Fox News under Title VII of the Civil Rights Act of 1964 (“**Title VII**”).

4. Ms. Areu's retaliation claims are asserted because after this lawsuit was initially filed, instead of remedying the issues raised in the Original Complaint, Fox News chose to retaliate against, attack, and “victim blame” Ms. Areu, by leaking cherry-picked emails to the media to portray Ms. Areu as someone who invited sexual harassment.

5. Moreover, Fox News further retaliated against Ms. Areu by serving a Rule 11 letter on her and her prior counsel. The letter threatens to seek sanctions in the event that Ms. Areu refuses to withdraw her claims. Fox News has since made a Rule 11 Motion (ECF Dkt. No. 52-68), which Plaintiff will oppose.

6. This latter point is, unfortunately, not surprising given who Fox News hired to represent it in this matter; namely, the law firm of Proskauer Rose, LLP (“**Proskauer**”). Proskauer has a long history of making threats and filing retaliatory litigation against individuals who allege that they have been discriminated against or harassed.

7. Rather than focus on the serious allegations set forth in the complaint by women who dedicated years of their time to Fox News and who risked their careers by coming forward, Defendants and Proskauer further victimize and harass plaintiffs by threatening litigation and hurling baseless allegations against them. While it is expected from Defendants, it is outrageous to see a law firm such as Proskauer repeatedly assist perpetrators of harassment in attacking plaintiffs and intimidating other women from stepping forward because of the damage caused by such reckless and venomous attacks.

8. Accordingly, Ms. Areu seeks injunctive, declaratory and monetary relief against Defendants for violations of Title VII, the NYSHRL and the NYCHRL.

### **ADMINISTRATIVE PREREQUISITES**

9. Plaintiff filed a Charge of Discrimination with the Equal Employment Opportunity Commission (“EEOC”) alleging violations of Title VII, 42 U.S.C. §§ 2000e, *et seq.* (“Title VII”) and on September 9, 2020, the EEOC issued Plaintiff a Notice of Right to Sue. The Right to Sue letter indicates that while “Less than 180 days have passed since the filing of this charge, but I have determined that it is unlikely that the EEOC will be able to complete its administrative processing within 180 days from the filing of this charge.”

10. Any and all other prerequisites to the filing of this suit have been met.

### **JURISDICTION AND VENUE**

11. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1343 as this action raises federal questions regarding the deprivation of Plaintiff's rights. This Court also has jurisdiction pursuant to 28 U.S.C. § 1332 based on complete diversity as Ms. Areu is a resident of Florida, no other parties reside within the same state as any other parties, and the amount in controversy exceeds the sum of \$75,000.

12. The Court has supplemental jurisdiction over Plaintiff's related claims arising under state and city law pursuant to 28 U.S.C. § 1367(a).

13. Specifically, Ms. Areu's state and local claims are based in large part on: (i) the unlawful harassment that resulted in inferior terms, conditions or privileges of her employment at Fox News; (ii) Fox News's apathy towards, and willingness to permit, sexually inappropriate harassment and disparate treatment based on gender in its workplace; (iii) and Fox News' choice to retaliate against, attack, and "victim blame" Ms. Areu, by leaking cherry-picked emails to the media to portray Ms. Areu as someone who invited sexual harassment.

14. Furthermore, Ms. Areu received a Notice of Right to Sue under Title VII, providing this Court with subject matter jurisdiction over Plaintiff's Title VII claims and supplemental jurisdiction over Plaintiff's indisputably related state and local law claims.

15. Pursuant to 28 U.S.C. § 1391(b), venue is proper in this Court because a substantial part of the events or omissions giving rise to this action, including the unlawful employment practices alleged herein, occurred in this district.

## **PARTIES**

16. Plaintiff Cathy Areu was, at all relevant times, an applicant for employment with Fox News<sup>1</sup> Ms. Areu is also a covered “non-employee” under the NYSHRL and NYCHRL as she worked as a contractor and/or vendor and/or consultant for Fox News Network, LLC. Ms. Areu is a current resident of the state of Florida.

17. Defendant Fox News Network, LLC. is a Delaware limited liability company with a principal place of business located in New York, New York. At all relevant times, Fox News was an “employer” within the meaning of all applicable statutes. At all relevant times, Ms. Areu was within the ambit of the amendments to the NYSHRL and NYCHRL, which prohibit unlawful discrimination against even non-employees.

18. Defendant Ed Henry, upon information and belief, resides within the State of Maryland and is an aider and abettor under NYSHRL and NYCHRL.

19. Defendant Sean Hannity, upon information and belief, resides within the State of New York and is an aider and abettor under NYSHRL and NYCHRL.

20. Defendant Tucker Carlson, upon information and belief, resides within Washington, D.C. and is an aider and abettor under NYSHRL and NYCHRL.

21. Defendant Howard Kurtz, upon information and belief, resides in or around Washington, D.C., and is an aider and abettor under NYSHRL and NYCHRL.

## **FACTUAL ALLEGATIONS**

### **I. MS. ECKHART**

22. Because the claims of Ms. Areu have been severed from those of Ms. Eckhart pursuant to the October 8, 2020 Order, most of the allegations set forth in the First Amended

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<sup>1</sup> Ms. Areu contends that she also was an “employee” in light of the substantial control Fox News had over her working conditions, as well as the substantial benefits she received from appearing on Fox News.

Complaint that relate only to Ms. Eckart's claims have been excised from this document; certain facts are incorporated herein by reference to the extent that they are relevant to provide context to Ms. Areu's claims, particularly with respect to her causes of action sounding in sexual harassment and hostile work environment, as set forth below. *See generally* First Amended Complaint, at ¶¶ 23 – 93.

**A. Fox News Is Put on Notice of Mr. Henry's Sexual Misconduct**

23. In May 2016, it was revealed by numerous media outlets that Mr. Henry had engaged in an affair with a Las Vegas stripper.

24. Mr. Henry was given a “slap on the wrist” by Fox News executives, and took a four month leave of absence, which included a trip to Capri, Italy. He returned to Fox News in August 2016, having suffered no repercussions for his conduct.

25. Mr. Henry's return to Fox News directly coincided with Gretchen Carlson and other Fox News female employees coming forward with allegations of sexual harassment against then-CEO Roger Ailes. As a result, Fox News hired the law firm Paul, Weiss, Rifkind, Wharton & Garrison LLP (“Paul Weiss”) to conduct an investigation into sexual harassment at Fox News.

26. During the Paul Weiss investigation, multiple women complained that Mr. Henry had subjected them to sexual harassment and/or unwanted sexual messages. Yet, upon information and belief, Fox News took no remedial action, and allowed Mr. Henry to continue working.

27. Not only did Fox News not reprimand Mr. Henry in light of the Paul Weiss investigative findings, but Mr. Henry was rewarded with a fill-in anchor position on “Fox & Friends Weekend.” Moreover, HarperCollins, an affiliate of Fox News, subsequently gave Mr. Henry a lucrative book deal.

28. Meanwhile, upon his return to work, Mr. Henry sent Ms. Eckhart lewd sexual messages. The details of Mr. Henry creating a Hostile Work Environment including allegations of sexual assault and rape are set forth in Ms. Eckhart's complaint which Plaintiff incorporates by reference.

29. In December 2019, despite the fact that Fox News was well aware of Mr. Henry's inappropriate sexual misconduct, it was announced that Mr. Henry was promoted to the position of co-anchor of the "America's Newsroom" program.

30. On February 10, 2020, Ms. Eckhart complained to Denise Collins ("**Ms. Collins**"), the Senior Vice President of Human Resources at Fox News, as well as her supervisor, Brad Hirst ("**Mr. Hirst**"), about the fact that she was experiencing a toxic work environment at Fox News.

31. Neither Ms. Collins nor Mr. Hirst ever followed up with Ms. Eckhart about her concerns in this regard, nor did either make any effort to investigate or remediate the toxic working environment.

32. Instead, on June 12, 2020, Fox News retaliated against Ms. Eckhart by informing her that her employment would be terminated effective June 26, 2020, after more than seven years of employment.

33. On June 25, 2020, prior to the effective date of her termination, Ms. Eckhart put Fox News on notice that she had retained legal counsel and intended to bring legal claims in relation to Mr. Henry's misconduct. Ms. Eckhart's counsel laid out all of the foregoing to Fox News' in-house attorney, as well as Fox News' outside investigator.

34. On July 1, 2020, Fox News terminated Mr. Henry, and purported to take credit for acting appropriately. Nothing could be further from the truth. Indeed, in Fox News' public

announcement, it grossly mischaracterized Mr. Henry's behavior by whitewashing it as merely "sexual misconduct," rather than violent sexual assault.

35. Fox News did not terminate Mr. Henry for his misconduct – it terminated Mr. Henry because it realized it was on the precipice of a public relations nightmare.

36. While Mr. Henry, no doubt, should have been terminated for his conduct, Fox News never should have put him in a position to engage in this behavior to begin with. Fox News, including, upon information and belief, Fox News' Executive Vice President of Human Resources, Kevin Lord, as well as Fox News President and Executive Editor, Jay Wallace, and Fox Business Network President, Lauren Petterson, was on notice of Mr. Henry's sexual misconduct towards other women at Fox at least as early as 2017. Nevertheless, Fox News not only supported Mr. Henry, but also promoted him to a co-anchor position.

37. As a result, he held a position of power from which he felt emboldened to violently rape Ms. Eckhart.

38. Fox News also rewarded Mr. Henry with a new streaming show on Fox Nation called, 'Ed Henry's Front Row Seat.' Moreover, HarperCollins, an affiliate of Fox News, subsequently gave Mr. Henry yet another book deal.

39. Fox News did not even notify Ms. Eckhart of the fact that it would be terminating Mr. Henry after the findings of its internal investigation. Fox News also sent an internal memo to thousands of its employees, including Ms. Eckhart's former colleagues at the network, about the decision to terminate Mr. Henry without consulting with or notifying Ms. Eckhart.

40. This conduct on the part of Fox News is abhorrent,.



41. Fox News engaged in this retaliatory conduct because Ms. Eckhart engaged in protected activity by hiring counsel and putting Fox News on notice of her intent to bring legal claims.

## **II. CATHY AREU**

### **A. On-Air Fox News Personalities**

42. Unlike most industries, the News and Media industry veers from the normal hiring process, particularly with respect to their on-air personalities.

43. Instead of a traditional approach such as filling out an application and interviewing for the job, on-air personalities undergo a “field test” of sorts wherein their previous on-air work serves as their resume and their interview often takes the form of an engagement as a contributor, pundit or analyst (“Contributor”) auditioning live on a network program.

44. At Fox News, there are two primary contributor roles: Paid and Unpaid. Upon information and belief, Fox News paid contributors either receive an annual salary or are paid per appearance.

45. This unorthodox hiring process, while often effective, can have its pitfalls when it is not monitored.

46. At Fox News, this hiring process is much like the “casting couch” of Hollywood where female contributors are subjected to different standards for obtaining a paid role or position in the Fox News family.

47. Like Ms. Areu, many women join Fox News through an unpaid contributor or analyst role with the expectation and understanding that if they perform, and their ratings meet expectations, there is a permanent, paid position at Fox News waiting for them.

48. Ms. Areu arrived at Fox News after several appearances on other networks. Initially, and as Ms. Areu's appearances increased on top-rated Fox shows, she repeatedly expressed her interest in securing one of the valued paid contributor positions at Fox News.

**i. Ms. Areu becomes a Regular, but Unpaid, On-Air Personality**

49. In or around 2017, Ms. Areu became a regular "analyst" on Fox News. She could be seen on the network approximately five (5) or more times per week, including appearances on the most highly rated programs on Fox News, including "Tucker Carlson Tonight," "Media Buzz with Howard Kurtz," "Hannity," and "The Ingraham Angle," "Outnumbered," "Fox and Friends," "Fox and Friends First," "Waters' World," "The Story," "Fox News @ Night" with Shannon Bream, Niel Cavuto's "Cavuto Live," "Your World," and "Coast to Coast."

50. During this time, Ms. Areu was expected to appear on every show regardless of how little notice she was given. She was required to stay up to date on all current events to ensure that she would be prepared to discuss any relevant topic. When she was not appearing on shows, she was prepping for them.

51. When she moved to Florida in January 2019, Ms. Areu was flown to and from New York and provided with hotel rooms in order to make her regular appearances. However, she was never compensated for her appearances.

52. In 2018, Ms. Areu became particularly well known for her segments on "Tucker Carlson Tonight," where she was given one of the four regular segments on the show and appeared on an ongoing basis as the Liberal Sherpa.

53. In 2018, "Tucker Carlson Tonight" was the second highest-rated show on Fox News (after "Hannity")<sup>2</sup> and Ms. Areu appeared at least twenty-two (22) times.

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<sup>2</sup> See <https://thehill.com/homenews/media/421114-fox-news-wins-2018-ratings-race-msnbc-has-its-best-year-ever>.

54. Indeed, Ms. Areu's Liberal Sherpa segments garnered tens of millions of views and continue to be accessible on Fox News' website. They were also for a time, and may still be, the most viewed segments on Fox News.

55. As a result of the success of Ms. Areu's appearances, the "Tucker Carlson Tonight" show created individualized graphics and an audio package for Ms. Areu's Liberal Sherpa appearances.

56. In April 2018, Ron Mitchell, the vice president of primetime programming at Fox News, told Ms. Areu that the Liberal Sherpa segment was "the best re-occurring segment in many years" and said: "You now have what so many on-air personalities take many years to develop – your own catchphrase!" In June 2018, Mr. Mitchell emailed Ms. Areu with the subject heading: "You are getting your own special!" and in the body of the email wrote: "On Tucker's show on July 4 – nothing but the Liberal Sherpa."

57. As a result, in 2018, Ms. Areu began having serious conversations with a myriad of employees at Fox News, regarding being brought on board as a paid contributor, including Mr. Mitchell. In July 2018, after a Liberal Sherpa segment on "theybies" went viral, Mr. Mitchell emailed the following to Ms. Areu: "They think it will hit 20 million by the end of the week!" He then stated: "And I just remembered that I owed you [an] answer on meetings with executives. ... I know that you are already on the list."

58. During that time, Ms. Areu also began working with her agent at William Morris and was nearing the "financials" stage of the contract with Fox News. According to Ms. Areu's agent, Fox News was in final discussions to bring her on board as an official paid contributor.

**ii. Influence and Control of Network Anchors**

59. At Fox News, hosts and anchors are given extensive control and influence over the production of their programs, including the guests and contributors participating in their shows.

60. Combine top ratings and large audiences and these hosts become extremely powerful across the Fox News universe.

61. At Fox News, the top two shows are helmed by men, Tucker Carlson and Sean Hannity.

62. These men have unbridled control over their programming, the contributors who appear and who will rise through the ranks of Fox News. With a single stroke these men can make or break one's career at Fox.

63. It was known that if you said "no" to one of these powerful hosts it would end your opportunity for a paid contributor role on their show and other Fox programming.

**iii. Male Contributors**

64. During Ms. Areu's tenure with Fox News, male contributors were consistently treated differently than female contributors.

65. Ms. Areu witnessed male contributors obtain paid positions without being required to go through a lengthy audition process to prove themselves on-air.

66. For example, in June 2018, Ms. Areu went on-air with Dan Bongino on "Hannity." Prior to air-time, Ms. Areu watched as Sean Hannity asked Mr. Bongino if he needed help becoming a contributor. Mr. Bongino said, "Yes." Then, Ms. Areu, Mr. Bongino, and Mr. Hannity debated on air. Several months later, Mr. Bongino was hired as a paid contributor.

67. Ms. Areu had similarly approached Mr. Hannity. While his show did create a somewhat regular segment in which Ms. Areu debated Tomi Lahren, Ms. Areu once again did so without compensation.

68. Ms. Areu also witnessed Gianni Caldwell's rise to paid contributor. In fact, in or about April 2017, she was asked to debate him on Fox Business so the network could see how well he could handle it. Afterwards, Ms. Areu was asked her opinion about Mr. Caldwell's performance. He, too, became a paid contributor without a lengthy audition process.

69. There was a clear divide in the way in which males and females were given paid positions at Fox News. Ms. Areu had become a regular segment on one of the most highly rated programs on Fox News; she was frequently asked to appear on other shows; and, most importantly, she had proven to be a ratings sensation, yet she was not hired as a paid contributor despite her long running audition.

70. In fact, in 2019, Ms. Areu was approached by Lawrence Jones, who had already bypassed Ms. Areu into a paid position, to appear on his new Fox Nation show to help him with his ratings.

**iv. Path to Paid Contributor for Areu and Other Women**

71. In addition to the delays and steering away from paid positions that male contributors did not have to face, male contributors were also not required to endure various forms of harassment on account of their gender.

72. Despite all her accomplishments and her experience, it became evident to Ms. Areu that she had two choices in deciding which path she was permitted to take to get to where she wanted at Fox News. Succumb to the desires of men in power or attempt to navigate the misogynistic culture that permeated her workplace. Ms. Areu chose the latter.

73. As experienced by Ms. Areu, female contributors were often subjected to a rather well-known “pay to play” policy that applied strictly to them. It was made clear through repeated actions of various men in positions of power that if a female contributor wanted to advance her career at Fox News , they had to engage in or be subjected to behavior that has no place in a work setting.

74. These propositions came in many forms, but they came in repeatedly and directly by various Fox News employees and representatives. Often, they would be invitations to hotels, offers to go to dinner, suggestions of rendezvous while wives were out of the picture, or direct suggestions of sexual encounters.

75. Alternatively, for those women who would not succumb to these ploys, they are left with dealing with sexually suggestive behavior, objectification, and comments regarding their appearance or personal lives.

76. From the outset, Ms. Areu made it clear she would not engage in any “pay to play” although she was confronted with it and forced to navigate it in a way that would hopefully preserve her career and opportunity. Ms. Areu made it a habit to come to work to work and not linger so as to attempt to avoid any opportunity for harassment.

77. At one point, out of concern for her own safety working nights alone with several men and no Fox management or human resources present, she began to bring someone with her to safeguard against possible risks related to working with these individuals.<sup>3</sup>

78. Eventually, it became evident to Ms. Areu that her success at Fox News was tied to her willingness to “pay to play” and refusing to play was fatal to her future at Fox.

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<sup>3</sup> As an unpaid contributor, Ms. Areu was never provided with any of the standard on-boarding documents provided by a Company upon hire. As a result, Ms. Areu was never given any information from Fox News about who to contact about workplace issues, nor was she provided with the process for doing so.

79. For example, Ms. Areu jokingly texted former anchor, Ed Henry: “Is Sandra [his co-host on “America’s Newsroom”] fired yet? Mr. Henry responded: “You haven’t taken care of me yet.”

80. On another occasion, Ms. Areu texted Mr. Henry and asked whether he would recommend that she speak to Fox News executive Lauren Petterson about a paid position. Ms. Areu ended the text by jokingly saying “who can hire me for [wine emoji] money there? Mr. Henry responded: “U want wine money? I can prob do that [laughing face emoji].” He then followed up with: “So I buy u wine. And u perform tasks?”

81. The male applicants at Fox News did not face these same hurdles.

82. Indeed, as a decades-tenured cameraperson explained to Ms. Areu, it is well known that the way for women to get ahead at Fox News is to “pay to play” unlike the men who receive job offers based on legitimate criteria.

## **B. Culture of Objectification and Harassment at Fox News**

### **i. History of Fox News**

83. In 2016, Roger Ailes, the Chairman and CEO of Fox News Channel and Fox Business Network, was pushed out of Fox News after accusations of sexual harassment.<sup>4</sup> The Company reached settlements with at least six women who accused Mr. Ailes of sexual harassment.<sup>5</sup>

84. In 2017, the *NY Times* detailed the decades-long pattern of sexual harassment that Fox News knowingly permitted in its workplace by anchor Bill O’Reilly. Indeed, from 2002 through 2016, Bill O’Reilly engaged in the sexual harassment and verbal abuse of at least five

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<sup>4</sup> See <https://www.bbc.com/news/world-us-canada-36862714>.

<sup>5</sup> See <https://www.nytimes.com/2017/04/01/business/media/bill-oreilly-sexual-harassment-fox-news.html>.

women.<sup>6</sup> Throughout that same time, despite Fox News being aware of the accusations, Mr. O'Reilly continued to rise to the very top of the Company.

85. As Wendy Walsh, a former on-air guest on Mr. O'Reilly's show, detailed: Mr. O'Reilly's offer to make her a contributor "never materialized after she declined an invitation to go to his hotel suite after a dinner in 2013."<sup>7</sup>

86. Mr. O'Reilly was not the only powerful man at Fox News using a "pay to play" tactic. Indeed, as detailed herein, this pattern and practice was commonplace at Fox News.

87. In July 2017, Fox News anchor, Charles Payne, was suspended after a frequent on-air guest reported that she was forced to engage in a sexual relationship with Mr. Payne in exchange for increased on-air appearances. She specifically alleged that Mr. Payne promised that he would help her obtain a paid contributor position. She alleged that after she complained to Fox News, she was blacklisted by the Company.<sup>8</sup>

88. As Mr. Payne returned from his suspension, in September 2017, Fox News anchor Eric Bolling parted ways with the network after allegations of sexual misconduct.<sup>9</sup>

89. At the time, the company made promises that it was committed to "maintaining a work environment based on trust and respect," but it is clear that Fox News failed to keep that promise.

## **ii. The Men of Fox News**

90. Since late 2017, Ms. Areu was increasingly subjected to a barrage of sexual harassment at Fox News. Ironically, it appeared to Ms. Areu that Bill O'Reilly's termination for

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> See <https://www.nytimes.com/2017/09/18/business/media/fox-news-lawsuit-charles-payne.html>

<sup>9</sup> See <https://variety.com/2017/tv/news/fox-news-eric-bolling-investigation-1202552350>.



sexual harassment had left a vacuum at Fox News and the male anchors were vying to fill Mr. O'Reilly's power position.

91. Unlike many analysts at Fox News, Ms. Areu successfully juggled hundreds of appearances on Fox News, even appearing on multiple shows in one day on several occasions. She made appearances on early morning, mid-day, primetime, and late-night shows on Fox News. For example, Ms. Areu appeared on "Fox and Friends" (and "Fox and Friends First"), "Watters World," "Media Buzz," "Your World with Neil Cavuto," "The Ingraham Angle," "Outnumbered," "The Kelly File," "The O'Reilly Factor," "Hannity," "The Story," "Fox News at Night with Shannon Bream," and "Tucker Carlson Tonight." She has also appeared on many Fox Nation<sup>10</sup> shows, including "Quiz Show," "Deep Dive," "The Lawrence Jones Show," "Keeping Up With Jones" and "Moms."

92. As a result, she fully experienced what it was like to work on a wide variety of Fox News' shows around the clock and she was exposed to an inordinate number of men in positions of power at Fox News, including Tucker Carlson, Howard Kurtz, Sean Hannity, Ed Henry, and Gianni Caldwell.

93. Some of the men in power were straight forward about their expectation that Ms. Areu "pay to play" if she expected something as small as a lunch meeting with a powerful pundit, for example, while others ultimately used their power to ensure that Ms. Areu would never receive a paid position after she refused to engage in and/or respond to their sexually inappropriate behavior.

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<sup>10</sup> Fox Nation is a digital streaming platform that includes original programming for a paid subscription.

*a. Sean Hannity*

94. For example, Ms. Areu was scheduled to appear on The Sean Hannity Show on March 8, 2018. She asked whether she could bring a guest, and she was permitted to do so. As Ms. Areu and her guest walked into the studio prior to the show starting, a cameraman ordered her guest to sit quietly in the corner, which he did.

95. Ms. Areu then walked over to Mr. Hannity to say hello. He immediately noticed that she brought a guest, which seemed to annoy him. Mr. Hannity asked the guest about his relationship with Ms. Areu. As the guest attempted to deflect the questions, Mr. Hannity was insistent on knowing the details of the relationship.

96. Ms. Areu attempted to change the conversation by commenting on the number of papers scattered across the desk. He shuffled the papers around and commented, in sum and substance, “you think I need these papers for you?” Ms. Areu was taken aback by his comment.

97. Mr. Hannity then pointed to the e-cigarettes on the desk and told Ms. Areu to take a puff. She politely declined given that she has asthma, but Mr. Hannity gestured toward the e-cigarette advertisers in the room. At first, Ms. Areu pretended to smoke the e-cigarette, but when Mr. Hannity continued to insist, she smoked it and began coughing. Mr. Hannity laughed.

98. Mr. Hannity then returned to questioning Ms. Areu’s guest. He asked the guest whether he intended to take Ms. Areu on a date to Del Frisco’s after the show. The guest responded that he had an early day the next morning. Mr. Hannity then stated that the guest had to take this “beautiful woman” out on a date and kept asking the guest whether he would agree to do so.

99. When the guest did not respond in the manner Mr. Hannity was seeking, he began loudly calling out to other males in the room. The other men in the room began laughing and saying they would take Ms. Areu on a date.

100. Ms. Areu was understandably mortified and made clear that she was incredibly uncomfortable. Yet, Mr. Hannity continued to ask each and every male in the room. Finally, Mr. Hannity turned to Ms. Areu's guest and said, "If all these men are willing to take her out on a date, why won't you?" as he began throwing out \$20 bills on the table in front of him.

101. Ms. Areu was rattled and just wanted the entire thing to end so she gestured toward her guest and pleaded with him to just accept the money so that the humiliation would end. Mr. Hannity then demanded that the money be used to buy a pineapple drink that is made specifically for Mr. Hannity at Del Frisco's. He asked for proof that it was ordered.

102. Ms. Areu knew that she would never get asked back on Mr. Hannity's show again if she did not thank Mr. Hannity for the drink and for having her on his show. That is, of course, simply the way that the Fox News television world works; namely, that women who do not accept misogynistic behavior from the extremely powerful male hosts do not get invited back to shows. As a result, Ms. Areu emailed the show to thank Mr. Hannity for having her on, and for the drinks. To date, Ms. Areu has thanked every producer/booker for her invitation to appear on a show, whether or not it was a wonderful or horrible experience. As anyone in the TV industry will attest, thanking a show for an appearance is proper etiquette if you want to get asked back.

103. However, Ms. Areu was not actually grateful for Mr. Hannity's conduct. Rather, as stated above, she was mortified by it. Ms. Areu also later sent a text message to a Cavuto producer in which she states that Hannity sent her to Del Friscos for the pineapple drink, but that she likes wine. She further says to the producer/booker: "don't tell [Hannity] [that she does not like the pineapple drink]," which also demonstrates that the post-incident emails were nothing more than an effort to be polite and avoid retaliation. The staffer replied: "your secret is safe with me."

104. The below picture was taken in the studio on March 8, 2018. The money (along with an e-cigarette that Mr. Hannity had Ms. Areu smoke are on the left side of the set desk.



105. While Ms. Areu appeared on Mr. Hannity's show a few times after the incident (sometimes with guest hosts and not with Mr. Hannity), she appeared approximately twice in 2019 and has not appeared since July 2019.

106. In further keeping with its years' long practice of retaliating against women who are courageous enough to speak out against sexual harassment in the workplace, Fox News immediately retaliated against Ms. Areu by: (i) leaking the aforementioned emails to knowingly create the false impression that Ms. Areu enjoyed being "auctioned off" to the men on Mr. Hannity's set; and (ii) threatening to seek sanctions against Ms. Areu and her former attorneys if she refused to withdraw her claims against Mr. Hannity.

107. In an October 29, 2014 interview by Eric Kelsey for Reuters, Mr. Hannity stated: "I have an outgoing personality, and I notice that everybody else does not. You can almost tell sometimes that people really like each other but are both afraid to make the first move or say anything. I'm like, 'Why don't you guys go out on a date, and I'll send you guys to Ruth's Chris (restaurant). But it has to be a date and you have to hold hands and you have to give her a kiss at the end of the night.' I'll do stuff like that to mess around with people." Apparently, despite

admitting that he treated Fox employees (and guests) in such a demeaning and sexist manner, Fox News permitted the behavior to openly continue in the workplace.

***b. Howard Kurtz***

108. Ms. Areu was also a relative regular on “Media Buzz” with Howard Kurtz from 2017 through 2020. Ms. Areu’s appearances did very well in the ratings and the segments were popular enough that Laura Ingraham’s show invited Ms. Areu to appear regularly as a media expert in a similar type of media segment on her show as a result.

109. Although most shows used booking agents, Mr. Kurtz routinely contacted Ms. Areu directly to book her for his show. Mr. Kurtz would both directly email and direct message Ms. Areu with requests to appear on his show.

110. Mr. Kurtz was well aware that Ms. Areu was looking for a paid position at Fox News. By way of example only, on May 4, 2018, Ms. Areu sent Mr. Kurtz a text message about the fact that she still had not been given a contributor contract by Fox News. Mr. Kurtz responded, “I don’t know why they’re resisting. Anyone else would get a contract. It must be that they think you’ll keep doing it for free or some higher up doesn’t like you.”

111. In December 2018, Ms. Areu wrote to Mr. Kurtz, *inter alia*, “Fox promised to have me on as a contributor by now, but nothing has happened.” He responded, *inter alia*, “Really surprised you haven’t gotten a contract from Fox.”

112. In a March 9, 2019 email exchange, Ms. Areu asked Mr. Kurtz for advice on obtaining a paid position, and he responded that it was “long overdue.”

113. At the same time, Mr. Kurtz was sending Ms. Areu messages via Twitter, phone, and email, commenting on her looks and requesting meetings at his New York City hotel.

114. Then, in July 2019, Ms. Areu knew that Mr. Kurtz would be coming to New York City, and she wanted to meet with him to discuss work-related items and her desire for a paid position at Fox News. In advance of Mr. Kurtz's visit, Ms. Areu wrote to Mr. Kurtz, *inter alia*, "So how should I go about convincing Amy and Lauren, or whoever makes the decision over there. I think they spent \$12k on my remote hits last week alone. And they're flying me up once a month for Fox Nation shows. ... I think it's cheaper to just make me a contributor at this point."

115. On July 9, 2019, Mr. Kurtz was in New York City. As noted, Ms. Areu wanted to meet with Mr. Kurtz to discuss work-related items and her desire for full-time employment with Fox News.

116. When the two were unable to meet at the office, Mr. Kurtz inappropriately invited Ms. Areu to come to his hotel ("I'm just at my hotel making calls. Can you come to the Muse lobby at 7:15?"). Ms. Areu politely declined but invited Mr. Kurtz to dinner with her and a friend who was in town. Mr. Kurtz declined. They agreed to meet after dinner.

117. Ms. Areu was concerned that if she did not meet with him, he may cancel her appearance on his Sunday show. As a result, she knew that she had to respond. She decided to wait until as late possible to respond with the knowledge that it would likely be too late and Mr. Kurtz would be asleep or unavailable.

118. So, while still with her friend, and hotel staff at a Fox partner hotel, she texted Mr. Kurtz that she was available to meet him at his hotel, The Muse. As she hoped, Mr. Kurtz did not respond, allowing Ms. Areu to have fulfilled her obligation to contact him without actually having to meet him. Ms. Areu hoped that would be enough to placate him.

119. The morning after Ms. Areu rejected Mr. Kurtz's advances, he refused to meet with her at the studio and emailed her, "I'm booked solid this morning which is why I hoped to connect

last night.” In reality, Mr. Kurtz appeared to be punishing Ms. Areu for refusing to join him at his hotel.

120. As if this were not already obvious enough, shortly thereafter, Mr. Kurtz stated directly to Ms. Areu, while they were in the F Studio greenroom before “Media Buzz” went live, in sum and substance, “I have to remember that you’re the only woman here who tells me she’s at a hotel to simply tell me she’s there. You don’t invite me over or come to my hotel room...I’ve made a mental note.”

121. Ms. Areu has only appeared approximately three times on “Media Buzz” following her rejection of Mr. Kurtz’s advances despite the fact that Ms. Areu’s previous appearances were incredibly successful.

122. After her last appearance on the show in April 2020, Mr. Kurtz emailed Ms. Areu to say she appeared rushed in her appearance. After years of being pleased with her appearances and praising Ms. Areu for being a “feisty Latina” and routinely making comments about her appearance, Mr. Kurtz suddenly decided that she was no longer good enough to appear on Media Buzz. What changed? Ms. Areu’s refusal to go to his hotel.

123. Notwithstanding all of the foregoing, after this lawsuit was initially filed Fox News engaged in blatant retaliation against Ms. Areu by leaking selective email/text communications that Ms. Areu sent after Mr. Kurtz declined to join Ms. Areu and her friend for dinner and already made clear that he was mad at Ms. Areu for not meeting at his hotel. These messages were leaked to give the false impression that Ms. Areu was pursuing Mr. Kurtz, and not vice-versa.

124. It is true that, aware that Mr. Kurtz was upset with her, and fearing retaliation, Ms. Areu did offer to meet with Mr. Kurtz at his hotel. However, as explained above, Ms. Areu did so while still with her friend at a time of night when she did not believe he would be available. In

particular, the message Fox News leaked regarding Ms. Areu asking Mr. Kurtz for his hotel room number was *after* Mr. Kurtz emailed the following to Ms. Areu with the subject “Well”: “I was available twice but you weren’t. Didn’t get much sleep last night so going to bed. Have a good night.”

125. Ms. Areu knew that he was unavailable as of 9:09 p.m. when he sent that email; she also knew that he was annoyed that she did not go to his hotel earlier, which is why she responded in such an over-the-top manner. She was attempting to inject humor into the situation to diffuse any potential blowback.

126. She would never knowingly put herself in a dangerous position to be alone with Mr. Kurtz at his hotel.

127. Regardless, she knew that Mr. Kurtz would decline any effort she made to see him because she was with her friend.

128. Simply put, Ms. Areu sent the emails because she feared retaliation at the hands of a powerful man who had repeatedly offered to help get her a paid position at Fox News. For Fox News to retaliate against Ms. Areu by leaking these emails to push a false and misleading narrative is shameful. Once again, Fox News attacks a victim of sexual harassment.

129. To make matters worse, in an effort to intimidate Ms. Areu into withdrawing her truthful allegations against Mr. Kurtz, Fox News has threatened to seek sanctions against Ms. Areu and her previous counsel if she fails to do so. This threat, too, constitutes unlawful retaliation.

*c. Gianni Caldwell*

130. As another example of the way in which males in positions of power simply expected females to acquiesce to their demands, on May 31, 2020, Gianni Caldwell, now a Fox News contributor based in Miami, Florida, texted Ms. Areu a video of him together with Ann



Coulter, a far-right media pundit who regularly appears on Fox News. The video depicted Ms. Coulter being swarmed by media. Mr. Caldwell wrote, “Ann is my friend.”

131. Mr. Caldwell, who knew that Ms. Areu would have loved the opportunity to meet and work with Ms. Coulter, then used this fact to attempt to coerce Ms. Areu into dating him.

132. Indeed, right after he sent the video, he wrote, “I had no idea you were here [in Florida]. We def need to get together.”

133. Ms. Areu ignored Mr. Caldwell’s request and deflected by making a joke about how famous Ms. Coulter is (“I didn’t know she was that famous. I get asked for selfies at Publix milk aisle. That’s about it.”).

134. Mr. Caldwell, either not getting the hint or not caring, responded, “I live in Brickell.”

135. Ms. Areu again brought the conversation back to business and told Mr. Caldwell that she would love to be invited to meet Ms. Coulter next time Mr. Caldwell saw her (“I’d love to be invited next time! Liberal Sherpa and Ann Coulter and Gianno Caldwell would bring peace and unity to all.”).

136. Mr. Caldwell responded, “Dope!” Mr. Caldwell then made clear that the “price” to meet Ms. Coulter would be a date with Mr. Caldwell.

137. Specifically, Ms. Areu asked, “Can I take you two for lunch,” and Mr. Caldwell responded, “Take me to lunch.”

138. Eventually, as Ms. Areu learned, she could only refuse to “pay to play” for so long without serious consequences to her career, which became abundantly clear when she refused to do so with two of Fox News’ most popular and powerful anchors, Tucker Carlson and Ed Henry.

***d. Tucker Carlson***

139. In 2017 and 2018, Ms. Areu appeared on a very frequent basis on “Tucker Carlson Tonight” (22 times, at least, in 2018 alone). As an October 2018 email exchange with Chelsea Gilman, a booker for “Tucker Carlson Tonight,” confirms, the show was enthusiastic about having Ms. Areu appear. Ms. Gilman wrote: “Thank you so much for joining us last night. We always love having you!”

140. On or around November 30, 2018, Ms. Areu appeared on Mr. Carlson’s show, which they filmed live together in New York City.

141. When Ms. Areu sat down with Mr. Carlson, she created small talk based on the only personal news she knew about the host: a recent incident his family experienced when protesters targeted his home. Ms. Areu expressed that she was sorry his family went through such an ordeal and Mr. Carlson laughed and replied, in sum and substance, “Oh that? Yeah, my wife was so pissed! She didn’t talk to me for days.”

142. Mr. Carlson’s response took Ms. Areu by surprise, but she also understood that a person’s on-air persona did not always match their off-air personality.

143. Ms. Areu also felt slightly nervous going into this appearance because unlike most of her “Liberal Sherpa” segments, she was in the studio with Mr. Carlson. Normally, Mr. Carlson broadcasts from Washington, D.C. so they were not physically in the same location.

144. As always, Ms. Areu intended to leave the studio immediately after the “Liberal Sherpa” segment ended. However, after the segment was completed, one of Mr. Carlson’s assistants and/or writer/producer (an unknown to her Fox employee) whispered into Ms. Areu’s ear that Mr. Carlson wanted her to stay until the very end of the show.

145. It was an unusual request, but Ms. Areu assumed that it meant that there was a possibility that she would appear on-air again later in the program.

146. As Mr. Carlson continued to broadcast, Ms. Areu, believing that she was or could be back on the lit camera aimed at her, continued to sit at the table for the duration of the show without direction in her earpiece (which is unusual for a live show). She sat as quietly as possible to not disturb the show.

147. However, the show ended without Ms. Areu going back on-air, which noticeably confused her. An assistant then walked over and removed all studio equipment from Ms. Areu, including an earpiece and microphone connected to the studio chair rest behind her back.

148. At the same time Ms. Areu was being unhooked from her studio equipment, a male employee shut the studio door and Mr. Carlson began changing his clothes in front of Ms. Areu and one other male employee.

149. As he was changing his clothes, Mr. Carlson told Ms. Areu that he was planning to attend his show's annual Christmas party that evening and specifically mentioned that he planned to "make a quick appearance."

150. Mr. Carlson, hardly making any effort to hide his intentions, then began telling Ms. Areu that he would be alone in New York City that night, and that he would be staying alone in his hotel room.

151. Ms. Areu had no idea why she was kept in the studio without an explanation. It was, however, a test to see if she would have the "right" reaction, that is, would she be open to his suggestion of a sexual encounter with him (whether it was that evening or at some point in the future).

152. Ms. Areu knew that if she did not respond in the “right” way, she ran the very real risk of no longer appearing regularly on his show. But, she refused to play along.

153. Instead, Ms. Areu asked why she was asked to stay after her segment ended. Mr. Carlson laughed at her and said: “Do you think I have a job for you?”

154. Ms. Areu listed her credentials and told him that she felt having the number one segment on his show made her worthy of that consideration. Mr. Carlson then joked with his two male colleagues by saying: “you guys didn’t find her on the street after all?”

155. By that time, Ms. Areu was becoming particularly aware that she was essentially alone in the studio. All makeup artists, assistants, interns, management, and others had left for the day. It was the night shift, where shows are often filmed without supervision. And, Ms. Areu was getting the distinct impression that Mr. Carlson and his male colleagues were enjoying making her uncomfortable.

156. Unknown to Mr. Carlson and the others, Ms. Areu had a guest in the greenroom who was perplexed that she had not emerged from the studio more than 45 minutes after her segment ended. Knowing that her guest was waiting in the greenroom gave Ms. Areu the courage to get up and leave the studio. She was so troubled by the encounter she ran into the greenroom. She was trembling when she arrived and her guest was startled by her behavior. When asked what happened, she recounted the entire incident.

157. At that time, Ms. Areu knew that her response to Mr. Carlson may mean the end of her Liberal Sherpa segment. And she certainly believed that reporting what happened would definitively lead to its end.

158. She was right. Although the Liberal Sherpa segment from that evening was receiving a lot of traction online, Ms. Areu realized that by the next morning, the segment had

been removed from Fox News on Facebook. Ms. Areu emailed Ron Mitchell to ask why it was removed and to inquire whether there was something wrong with the segment. He responded that he would find out why it was removed and added “Everyone likes the segment.”

159. However, shortly after that incident, Ms. Areu went from being a regular on “Tucker Carlson Tonight” to being on only a handful of times more. In fact, Ms. Areu appeared only four (4) times after the incident (one of which was with a guest host) despite appearing more than twenty (20) times prior in 2018 alone.

160. Several months after the incident, Ms. Areu informed a Fox cameraman about what happened. She wrote via text that she should have played along with whatever Mr. Carlson wanted that night. The cameraman responded that what happened was terrible. When Ms. Areu again stated that she should have gone out with Mr. Carlson, the cameraman knew exactly what Ms. Areu meant and replied: “You mean go out go out!”<sup>11</sup>

161. Not knowing who else to contact about the future of her Liberal Sherpa segment, in August 2019, Ms. Areu contacted Ron Mitchell (the senior vice president of prime-time programming), and asked if they were still doing the segment. Mr. Mitchell acknowledged that it had in fact been taken off the air (although Ms. Areu was never notified) when he responded: “Please pitch some! We were just talking about bringing it back.”

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<sup>11</sup> A Fox cameraman also sent Ms. Areu inappropriate text messages. For example, he sent her a screenshot of a tweet that showed a man naked from the waist down walking through Manhattan. The original tweet said: “Sunday morning out with my 4 year old daughter. Naked man, penis flapping in the breeze. Great job @NYCMayor @BilldeBlasio.” The cameraman commented, “She says it like it’s a bad thing...[tongue sticking out emoji]!” On another occasion, he sent Ms. Areu a text message at nearly 1 a.m. saying: “Hello...U up?” Ms. Areu replied “I have a temp phone. Who is this? I don’t have any contacts.” The cameraman responded: “That’s so sad...and it hurts you don’t know who would be texting you so late...I don’t feel that special now.” While the cameraman did not have the power to make hiring decisions, it is a further example of the way in which male employees at Fox News felt free to harass women.

162. As a result, Ms. Areu began pitching story ideas directly to Mr. Mitchell. He liked several of her pitches and booked her directly (through his staff) to appear on the show. Upon information and belief, that is the only reason that Ms. Areu was booked at all in 2019. In addition, there were several additional dates for which she was booked to be on the show through Mr. Mitchell, which were suddenly cancelled.

163. In 2020, Ms. Areu again asked about the status of her Liberal Sherpa segment. While the show's staff booked her after she inquired, they later told Ms. Areu that Mr. Carlson was no longer interested in her appearing on the show.

164. Moreover, Ms. Areu was informed by a Fox News employee that Mr. Carlson's tech manager expressly directed a Fox News worker *not* to help Ms. Areu set up a home studio with equipment.

165. Another employee working on Mr. Carlson's show told Ms. Areu that Mr. Carlson specifically thwarted a number of proposals to have her appear on the show.

166. Ms. Areu's failure to respond to Mr. Carlson's sexually suggestive invitation led directly to the cancellation of Ms. Areu's Liberal Sherpa segment. Given Mr. Carlson's power at Fox News, his lack of support had wide reaching implications for Ms. Areu's career.

167. Thus, despite proving that she could obtain some of the highest ratings on one of the highest-rated shows on Fox News in July 2018 and being placed on "the list" of those being included for a paid position, Ms. Areu was rarely making appearances on the top Fox News shows by 2019.

*e. Ed Henry*

168. After hosting a primetime show, "The Story" at Fox's F Studio in the New York City Bureau in May 2019, Mr. Henry spoke to Ms. Areu about his recent surgery. The two took

a picture together with Ms. Areu's phone, which she then shared with Mr. Henry. As a result, Mr. Henry had Ms. Areu's cell phone number. Almost immediately after getting her cell number, Mr. Henry began sending Ms. Areu a slew of wildly inappropriate sexual images, messages and videos through the first half of 2020, including many texts in which he implied that Ms. Areu should have sex with him and that he would assist Ms. Areu's career if she did so.

169. Ms. Areu did her best to change the subject by discussing current events and other news-related topics, while also attempting to ensure that he was not angry that she refused to "play along" with his sexually inappropriate text messages.

170. However, as the text messages increased, so did Mr. Henry's inappropriate texts. Examples include, among others:

- A "closeup" photograph of a woman's vagina being "clamped" closed by clothespins;
- A photograph of an individual wearing a mask that has a large penis in lieu of a nose and Mr. Henry's message: "Did you miss me?";
- A photograph of a vibrator faux smoking a cigarette;
- A photograph with a woman with her mouth open and tongue extended, with a man's hands pulling her towards his midsection, captioned "In case you wondering ... the male g-spot is located at the back of a woman's throat;"
- A photograph of a woman's rear end and vagina modified to include the features of a bunny rabbit (this was sent for Easter);
- A woman wearing nothing but three masks, in which her entire body is exposed other than her breasts and vagina;
- A photograph of a rubber glove where each finger appears to be a dildo and/or ribbed like a condom;
- A video of a woman running across the room and jumping towards a camera – her skirt lifts up and the video ends with a closeup of her vagina; and

- A video entitled “Fastest Interview ... candidate selected in 3 seconds.” In the video, a female purportedly interviewing for a position exposes her vagina, after which the male interviewer indicates that she got the job.

171. As noted, the “fastest interview” video shows a purported interviewee flashing her vagina to the interviewer, who immediately offers her the job.

172. Immediately after Mr. Henry sent Ms. Areu this video, he texted her, “Are you avail for anchor interview.”

173. Mr. Henry knew that Ms. Areu was looking for full-time work at Fox News, and was telling her, in no uncertain terms, that he would assist her career if she had sex with him.

174. On May 21, 2020, Mr. Henry asked Ms. Areu to speak over the phone. Ms. Areu was direct with Mr. Henry and asked whether he thought that Fox News might be hiring. Mr. Henry then made it clear what he expected from Ms. Areu if she wanted his assistance. Specifically, he started berating her for being “boring” and “not who [he] thought [she] w[as].” After Ms. Areu did not assuage Mr. Henry’s concerns by indicating that she was not “boring” (*i.e.*, that she would be willing to engage in sexual acts with him), Mr. Henry ended the call.

175. Over the following two weeks, Ms. Areu, attempting to salvage the relationship (in order to salvage her career), pitched various story ideas. When he failed to even respond, she wrote to him, “Wait, you haven’t written to me since we spoke. I sucked that bad?” Mr. Henry – making it clear that he was unhappy that Ms. Areu had decided not to sleep with him in exchange for his assistance with her career – wrote, “Nah you decided to be a jerk which made me sad.” Of course, Mr. Henry was simply fishing for Ms. Areu to change her mind and sleep with him. When she failed to do so, he simply wrote, “All good. Hope Florida is fabulous.”



**iii. Ms. Areu came forward despite knowing the consequences**

176. From Sean Hannity's offensive "auctioning" off of Ms. Areu in March 2018 to Tucker Carlson's sexually inappropriate behavior in November 2018 to Howard Kurtz's anger in July 2019 when Ms. Areu refused to meet him at his hotel to Ed Henry sending violent pornography in 2019-2020 to Gianni Caldwell's attempt to convince Ms. Areu to go on a date with him in exchange for an introduction to Ann Coulter in May 2020, Ms. Areu went from appearing regularly on Fox News' highest-rated shows in 2018 to being blacklisted from the majority of Fox News' most well-known shows in 2019 and to being completely removed from the air in 2020.

177. In an effort to retain her connection to Fox News, Ms. Areu began pitching story ideas for opinion pieces on Fox News' website. She received her first assignment in March 2019. Two editors in the op-ed department then began routinely assigning and accepting written pieces by Ms. Areu. However, by March 2020, all of Ms. Areu's contributed opinion pieces were "passed on" by FoxNews.com opinion editors, despite at least two pieces being bumped to the Fox News website's homepage because they exceeded expectations in readership.

178. Even still, Ms. Areu continued pitching story ideas and reaching out to her contacts at Fox News. She had not yet accepted that she was being blacklisted and remained hopeful that she would continue to have the opportunity to obtain a paid contributor position.

179. However, shortly after Mr. Henry was terminated on July 1, 2020, Ms. Areu received a call from a Fox News colleague notifying her about the termination. Ms. Areu immediately knew that she had a decision to make: would she risk any chance, however small, at reviving her Fox News career by coming forward with what she knew about the sexually hostile work environment at Fox?

180. Without a doubt, at the time Mr. Henry was terminated, as detailed herein, Ms. Areu's career at Fox News had begun being derailed as a result of her refusal to engage in sexual activity with male anchors, including but not limited to Mr. Henry.

181. Ms. Areu knew that speaking out against Fox News was not just about losing her career at Fox News, it was also about losing all economic security. After all, the economic opportunities made available to Ms. Areu as a result of her work at Fox News were absolutely essential given that despite the thousands of hours Ms. Areu spent preparing for and appearing on air at Fox News, she was never provided any compensation.

182. Not only would any opportunity to continue working at Fox News be destroyed, she would also be risking the attacks and spin Fox News would launch against her thereby undermining any future opportunities in her industry.

183. Not to mention that Ms. Areu had already been subjected to multiple threats from Fox News viewers over the last decade, which had left her concerned about her safety.

184. It is understandable, then, that it took Ms. Areu several moments to think about the choice facing her.

185. But, something in Ms. Areu broke when she learned about what happened to Ms. Eckhart, which was why, shortly after the news of Mr. Henry's termination broke, Ms. Areu found herself quickly writing an email to Amy Sohnen, the Vice President of Talent Development, before she lost her courage.

186. Ms. Areu started and stopped writing the email multiple times because she knew the consequences if she hit send. But, in the end, Ms. Areu sent an email in which she simply stated that she had pornographic text messages from Mr. Henry. She also stated that Mr. Henry was "not the only one" who sent her pornographic messages.

187. Ms. Areu never received a response from Ms. Sohlen.

188. As expected, the Fox News spin machine immediately sought to discredit Ms. Areu. As detailed above, Fox News has a pattern of retaliating against women who are courageous enough to speak out against sexual harassment in the workplace, and its response to Ms. Areu coming forward has continued that pattern.

189. Nonetheless, Ms. Areu knows that Fox News will never be a safe place for women to work unless there are major institutional changes. She has a young daughter who wants nothing more than to be a journalist when she grows up. And Ms. Areu wants to be able to encourage her to follow that dream. She could not do that knowing that she had any part in permitting Fox News to continue its abuse and harassment of women.

**FIRST CAUSE OF ACTION**  
**(Hostile Work Environment, Sexual Harassment and Gender**  
**Discrimination under Title VII of the Civil Rights Act of 1964)**  
***Against Fox News***

190. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully within.

191. Defendant Fox News has discriminated against Plaintiff on the basis of her gender in violation to Title VII by subjecting her to disparate treatment based upon her gender, including, but not limited to, subjecting her to sexual harassment and a hostile work environment. As a result, Plaintiff was denied the opportunity to work in an employment environment free of unlawful discrimination.

192. Additionally, Defendant Fox News has discriminated against Plaintiff by subjecting her to disparate treatment with respect to Defendant Fox News' discriminatory failure to hire on the basis of gender.

193. These actions are in direct violation of Title VII of the Civil Rights Act of 1964, as amended.

194. As a direct and proximate result of Defendant Fox News' unlawful discriminatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

195. As a direct and proximate result of Defendant Fox News' unlawful discriminatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

196. Defendant Fox News' unlawful discriminatory and wrongful conduct constitutes a willful and wanton violation of Title VII, was outrageous and malicious, was intended to injure Plaintiff, and was committed with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

**SECOND CAUSE OF ACTION**  
**(Retaliation under Title VII of the Civil Rights Act of 1964)**  
***Against Fox News***

197. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

198. Defendant Fox News has retaliated against Plaintiff because she engaged in protected activity as defined by Title VII of the Civil Rights Act by, *inter alia*, failing to hire her, and subjecting her to harassment and trauma, including, among other things, leaks to the media and a threatened motion for sanctions.

199. As a direct and proximate result of Defendant Fox News' unlawful retaliatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

200. As a direct and proximate result of Defendant Fox News' unlawful retaliatory conduct in violation of Title VII, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

201. Defendant Fox News' unlawful discriminatory and wrongful conduct constitutes a willful and wanton violation of Title VII, was outrageous, malicious and cruel, was intended to injure Plaintiff, and was committed with conscious disregard of Plaintiff's civil rights, entitling Plaintiff to an award of punitive damages.

### **THIRD CAUSE OF ACTION**

#### **(Hostile Work Environment, Sexual Harassment and Gender Discrimination under the NYSHRL) *Against All Defendants***

202. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

203. Defendants have discriminated against Plaintiff on the basis of her gender in violation of the NYSHRL by subjecting Plaintiff to disparate treatment based upon her gender, including, but not limited to, subjecting her to sexual assault and/or harassment and a hostile work environment.

204. Additionally, Defendants have discriminated against Plaintiff by subjecting her to disparate treatment with respect to Defendants' discriminatory failure to hire on the basis of gender.

205. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

206. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

207. Defendants' unlawful and discriminatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYSHRL for which Plaintiff is entitled to an award of punitive damages

**FOURTH CAUSE OF ACTION**  
**(Retaliation under the NYSHRL)**  
***Against All Defendants***

208. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

209. Defendants have retaliated against Plaintiff because she engaged in protected activity as defined by the NYSHRL by, *inter alia*, terminating her employment and/or failing to hire her, and subjecting her to post-termination harassment and trauma, including, among other things, leaks to the media and a threatened motion for sanctions.

210. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

211. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYSHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

212. Defendants' unlawful and retaliatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYSHRL for which Plaintiff is entitled to an award of punitive damages.

**FIFTH CAUSE OF ACTION**  
**(Aiding and Abetting in Violation of the NYSHRL)**  
***Against Individual Defendants***

213. Plaintiff Areu hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

214. Defendant Henry knowingly and maliciously aided and abetted the unemployment practices, discrimination, and retaliation, as described herein, committed against Plaintiff Areu in violation of the NYSHRL.

215. Defendants Carlson, Hannity, and Kurtz knowingly and maliciously aided and abetted the unemployment practices, discrimination, and retaliation, as described herein, committed against Plaintiff in violation of the NYSHRL.

216. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

217. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

**SIXTH CAUSE OF ACTION**  
**(Hostile Work Environment, Sexual Harassment and Gender**  
**Discrimination under the NYCHRL)**  
***Against All Defendants***

218. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

219. Defendants have discriminated against Plaintiff on the basis of her gender in violation of the NYCHRL by subjecting Plaintiff to disparate treatment based upon her gender, including, but not limited to, subjecting her to failure to hire, wrongful termination, sexual harassment, and a hostile work environment.

220. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

221. As a direct and proximate result of Defendants' unlawful discriminatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

222. Defendants' unlawful and discriminatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYCHRL for which Plaintiff is entitled to an award of punitive damages.

**SEVENTH CAUSE OF ACTION**  
**(Retaliation under the NYCHRL)**  
***Against All Defendants***

223. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

224. Defendants have retaliated against Plaintiff because she engaged in protected activity as defined by the NYCHRL by, *inter alia*, terminating her employment and/or failing to



hire her, and subjecting her to post-termination harassment and trauma, including, among other things, leaks to the media and a threatened motion for sanctions.

225. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

226. As a direct and proximate result of Defendants' unlawful retaliatory conduct in violation of the NYCHRL, Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

227. Defendants' unlawful and retaliatory actions were intentional, done with malice and/or showed a deliberate, willful, wanton and reckless indifference to Plaintiff's rights under the NYCHRL for which Plaintiff is entitled to an award of punitive damages.

**EIGHTH CAUSE OF ACTION**  
**(Aiding and Abetting in Violation of the NYCHRL)**  
***Against Individual Defendants***

228. Plaintiff hereby repeats and realleges each and every allegation in the preceding paragraphs as if set forth fully herein.

229. Defendant Henry knowingly and maliciously aided and abetted the unemployment practices, discrimination, and retaliation, as described herein, committed against Plaintiff in violation of the NYSHRL.

230. Defendants Carlson, Hannity, and Kurtz knowingly and maliciously aided and abetted the unemployment practices, discrimination, and retaliation, as described herein, committed against Plaintiff in violation of the NYCHRL.

231. As a direct and proximate result, Plaintiff has suffered, and continues to suffer, monetary and/or economic harm for which she is entitled to an award of monetary damages and other relief.

232. As a direct and proximate result Plaintiff has suffered, and continues to suffer, severe mental anguish and emotional distress for which she is entitled to an award of monetary damages and other relief.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that the Court enter judgment in her favor and against Defendants, containing the following relief:

A. A declaratory judgment that the actions, conduct and practices of Defendants complained of herein violate the laws of the United States, the State of New York and the City of New York;

B. An injunction and order permanently restraining Defendants and their partners, officers, owners, agents, successors, employees and/or representatives, and any and all persons acting in concert with them, from engaging in any such further unlawful conduct, including the policies and practices complained of herein;

C. An order reinstating Plaintiff into a paid contributor position and/or back pay for the years she provided services to Defendants.

D. An order requiring Defendants to create and maintain an adequate sexual harassment policy that covers employees and contributors engaged in services with Defendants and further ordering Defendants to provide each employee and contributor with a copy of said policy in written and electronic form. The policy should include, but is not limited to, the policies and procedures for reporting any sexual harassment or gender discrimination claims, the specific

identities of Human Resource personnel who should be contacted to report any sexual harassment or gender discrimination along with their telephone numbers and email addresses, and a toll free anonymous hotline that can field and respond to reports of sexual harassment or gender discrimination.

E. An order requiring Defendants to engage in companywide sexual harassment and sensitivity training conducted by an organization recommended by the National Women's Law Center.

F. An order requiring Defendants to provide an on-site ombudsperson to address reports of sexual harassment and gender discrimination. Said ombudsperson should be accessible to employees and contributors engaged in a business relationship with Defendants.

G. An order requiring Defendants to provide an on-site member of management or Human Resources in all studios where live or taped programming occurs, day or night. Said person should be accessible to employees and contributors engaged in a business relationship with Defendants.

H. An award of damages against Defendants, or any jointly or severally liable entity or person, in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all monetary and/or economic damages, including, but not limited to, loss of past and future income, wages, compensation, seniority, and other benefits of employment;

I. An award of damages against Defendants, or any jointly or severally liable entity or person, in an amount to be determined at trial, plus prejudgment interest, to compensate Plaintiff for all non-monetary and/or compensatory damages, including, but not limited to, compensation for her emotional distress;

J. An award of damages for any and all other monetary and/or non-monetary losses suffered by Plaintiff , including, but not limited to, loss of income, earned bonus pay, reputational harm and harm to professional reputation, in an amount to be determined at trial, plus prejudgment interest;

K. An award of punitive damages, and any applicable penalties and/or liquidated damages in an amount to be determined at trial;

L. Prejudgment interest on all amounts due;

M. An award of costs that Plaintiff has incurred in this action, including, but not limited to, expert witness fees, as well as Plaintiff's reasonable attorneys' fees and costs to the fullest extent permitted by law; and

N. Such other and further relief as the Court may deem just and proper.

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**JURY DEMAND**

Plaintiff Areu hereby demands a trial by jury on all issues of fact and damages stated herein.

Dated: October 14, 2020  
New York, New York

Respectfully submitted,

By: /s/ James A. Vagnini\_\_\_\_\_

James A. Vagnini  
Sara Wyn Kane  
Matthew L. Berman  
Monica Hincken

**VALLI KANE & VAGNINI LLP**

600 Old Country Road, Suite 519  
Garden City, New York 11530  
Telephone: (516) 203-7180  
Facsimile: (516) 706-0248

[jvagnini@vkvlawyers.com](mailto:jvagnini@vkvlawyers.com)  
[skane@vkvlawyers.com](mailto:skane@vkvlawyers.com)  
[mberman@vkvlawyers.com](mailto:mberman@vkvlawyers.com)  
[mhincken@vkvlawyers.com](mailto:mhincken@vkvlawyers.com)

*Attorneys for Plaintiff Cathy Areu*